THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.3207 OF 2006

Dated: 21-02-2006

Between

Divyagnana Vidya Samithi,
Ashok Nagar, Eluru, West
Godavari District, rep. by
its secretary and others.

...PETITIONERS

AND

Superintending Engineer,
Roads & Buildings, Eluru,
West Godavari District
and others.

...RESPONDENTS

ORDER:

This writ petition is filed to declare the action of the respondents in marking the premises bearing Municipal Door No.24A-4-11/1, 2 for the purpose of road widening and seeking to demolish the same without following the procedure prescribed in law as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioner-society was registered under the Societies Registration Act bearing S.No.13/46 and its main objective being the promotion of education, the society has established Junior College and High School in Eluru in the premises bearing Municipal Door No.24A-4-11/1, 2. While so, the respondents marked the compound wall of the junior college and school all along its stretch for the purpose of road widening.

Learned counsel further submits that if the marked portion of the school premises is taken away for road widening the school will be deprived of the entire area occupied by the bore well, which caters to the need of drinking water; and also the entire parking place will be affected.

The main grievance of the petitioner-society is that the respondents have not issued any notice before deciding to demolish the said premises and they are trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporations Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, which is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,

the respondents are directed not to demolish the structures or take away any portion of the property of the petitioner-society without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

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V. ESWARAIAH, J

February 21, 2006

DSK